

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appl. No. : 10/718,023 Confirmation No. 8805
Appellant : Raanan Liebermann
Filed : November 19, 2003
TC/A.U. : 3714
Examiner : Binh An Duc Nguyen

Docket No. : 03-125
Customer No. : 34704

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

REPLY BRIEF

Sir:

This is in reply to the Examiner's Answer mailed on October 29, 2009, setting a two month date for response which expires on December 29, 2009.

REMARKS/ARGUMENTS begin on page 2 of this paper.

REMARKS/ARGUMENTS

(A) Claim 1 Is Not Anticipated by Lynt et al.

On page 15 of the Examiner's Answer, the Examiner contends that Lynt et al. teaches delivering a physical signal representative of a key word (e.g. mail box, police car, tanks, etc.) to a user. This is wrong. As discussed in Appellant's Brief, Lynt et al. delivers a physical image of an object, not a key word. The person using Lynt et al.'s tactile display understands what the object is by feeling it.

On page 17, lines 6 - 7, of the Examiner's Answer, the Examiner says that Lynt et al. does not preclude the tactile display from being placed on more than one portion or part of an individual's body surface or skin. In an anticipation rejection, the issue is not what Lynt et al. precludes. The issue is what Lynt et al. discloses. As pointed out in Appellant's Brief, Lynt et al. does not disclose transmitting a key word to a first part of a person's body and transmitting a dynamic element associated with the key word to a second part of the body.

The Examiner contends on page 17 of the Examiner's Answer that Lynt et al. teaches transmitting at least one physical element describing a dynamic element associated with the key word to a second part of the body of the handicapped person. The Examiner relies upon column 3, lines 36 - 44 of Lynt et al. to support this proposition. A review of this section however shows that it discusses what occurs in the processing means - namely that it identifies objects, their relative size, their spatial location relative to the device, their movement, if any, etc. The error in the Examiner's position is that the

processing means does not transmit anything to any part of a user's body. The signals from the processing means are sent to the tactile display means which converts them into the tactile images. See column 3, lines 57 - 59 of Lynt et al. There is nothing in anything cited by the Examiner which discloses transmitting a signal representative of a key word to a first part of a user's body and a physical input representative of a dynamic element to a second part of the user's body.

On pages 18 - 20 of the Examiner's Answer, the Examiner presents his inherency argument. The argument is defective because it merely outlines a possibility in Lynt et al.'s system. It is well settled law that mere possibilities are insufficient to establish inherency. Further, the Examiner fails to grasp that what is being claimed is more than just transmitting a signal to two different parts of the body. Claim 1 calls for a first signal representative of a key word to be transmitted to the first part and a second signal representative of a dynamic element associated with the key word to be transmitted to the second part of the body. Lynt et al. may talk about providing separate visual and auditory tactile displays; however, there is no disclosure in Lynt et al. that one represents a key word and the other represents a dynamic element associated with that key word. Further, with regard to the inherency argument, the Examiner has failed to show through the use of any extrinsic evidence that the missing written description would be necessarily present in Lynt et al. and would be so recognized by one of skill in the art. In other words, the Examiner has failed to meet his burden of establishing a case of inherency.

With regard to the new use for an old structure argument presented by the Examiner, the argument fails because Appellant's claimed method or structure for performing it is not old. It is in fact quite novel as evidenced by the failure of Lynt et al. to disclose the claimed invention - namely "delivering a physical signal representative of a key word describing a portion of a visual image to a first part of a body of said handicapped person using said at least one device and further comprising transmitting at least one physical input describing a dynamic element associated with said key word to a second part of the body of the handicapped person." Nowhere in the Examiner's analysis of Lynt et al.'s disclosure concerning the transmission of visual and auditory signals does the Examiner point out that one of the signals is directed to a key word and the other of the signals is directed to a dynamic element associated with the key word. Again, the mere fact that this is a possibility, or even a probability, is insufficient to establish inherency. In conclusion, claim 1 does not recite an old composition or structure which is anticipated by Lynt et al. It recites a novel set of method steps which are not described expressly or inherently in Lynt et al.

(B) Claim 1 Is Not Obvious Over Lynt et al.

With regard to the Examiner's comments on pages 21 - 24 of the office action, there is no question that one, after having read the claim and disclosure in this case, could modify Lynt et al. to perform the claimed method steps. However, there is nothing in Lynt et al. itself

which teaches or suggests making such a modification. The only reason that the Examiner proposes the modifications to Lynt et al. is that he has had the benefit of seeing what it is that Appellant has done. The obviousness rejection made by the Examiner is clearly a hindsight rejection. While Lynt et al. may teach a device that communicates tactile images and auditory signals, there is nothing in Lynt et al. which teaches or suggests that one should be a key word and the other should be a dynamic element associated with the key word. The best evidence of the hindsight nature of the rejection is the Examiner's consistent use of the word "could" throughout this section of the Examiner's Answer, i.e. "information could be provided on a first portion and a second portion," or "could be used to provide the key word of the tank via a tactile display and the noise level of the rumbling tank via another tactile display." Lynt et al. does not say that these things are done. Without some teaching or suggestion in the Lynt et al. patent or elsewhere in the prior art, there is no legal basis for concluding the claimed method is obvious. Further, the Examiner has not provided any technical line of reasoning having a rational underpinning which would establish why one of ordinary skill in the art would so modify Lynt et al. to perform the method of claim 1.

(C) Claim 42 Is Not Anticipated by Lynt et al.

Claim 42 is directed to a system for communicating visual images which comprises at least one device for physically transmitting information about said visual images to the handicapped person. The at least one device includes means for delivering a physical signal

representative of a key word associated with said visual images to a first part of a body of said handicapped person and means for delivering at least one physical input describing a dynamic element associated with said key word to a palm of said handicapped person. Claim 42 is allowable for the same reasons as claim 1 and further because there is no disclosure in Lynt et al. of transmitting a dynamic element associated with a key word to a palm of said handicapped person.

On pages 25 - 27 of the Examiner's Answer, the Examiner presents his arguments in response to Appellant's assertion of patentability. The Examiner again discusses that Lynt et al. discloses providing a tactile image and an auditory image. However, the Examiner still fails to point out where Lynt et al. says that one signal is for a key word and the other is for a dynamic element associated with the key word. The Examiner then goes on to argue that Appellant has not structurally distinguished the claimed invention. This is incorrect. Appellant has pointed out that Lynt et al. does not have a "means for delivering a physical signal representative of a key word associated with said visual images to a first part of a body of said handicapped person" and "means for delivering at least one physical input describing a dynamic element associated with said key word to a palm of said handicapped person."

With regard to the Examiner's comments about outputting visual and auditory information, the Examiner fails to point out where Lynt et al. says that one is directed to a key word and the other is directed to a dynamic element related to the key word. Assuming *arguendo* that the auditory output is the dynamic element, there is

no disclosure in Lynt et al. of delivering the auditory output to the palm of a user.

For the reasons set forth in Appellant's Brief and for the reasons discussed herein, Lynt et al. does not anticipate the subject matter of claim 42.

(D) Patentability of Claims 3 - 9, 14, 15, 19, 20, 22- 27, 43, 46 - 49, and 53 - 58

On pages 27 and 28 of the Examiner's Answer, the Examiner contends that Lynt et al. discloses delivering the key word in Braille form to a body part. This is not accurate. What Lynt et al. teaches is the creation of Braille type characters for a scanned text or for a portion of a speech. There is nothing however that says that the Braille characters are used to deliver a key word. For these reasons and those set forth in Appellant's brief, claims 3, 27 and 58 are allowable.

On page 28 of the Examiner's Answer, the Examiner discusses claims 4 and 43. The Examiner points to that portion of Lynt et al. which describes how the tactile display could represent an apple. However, the Examiner errs because it is not recognized that there is no disclosure in this portion of Lynt et al. of transmitting a dynamic element associated with a key word to the palm of a user. For these reasons and the reasons set forth in Appellant's Brief, claims 4 and 43 are allowable.

On page 28 and 29 of the Examiner's Answer, the Examiner discusses the patentability of claims 5 - 7, 46, and 47. The cited portion of Lynt et al. set out on page 29 of the Examiner's Answer does not say that a plurality of successive elements describing a motion are transmitted

to the palm of a handicapped person (claim 5) or that a signal is transmitted to indicate continuance of a motion (claim 6) or transmitting the continuance signal in the form of at least one vibration or impact on a body part (claim 7) such as user's palm (claim 47). For these reasons and reasons set forth in Appellant's Brief, claims 5 - 7, 46, and 47 are allowable.

On pages 29 and 30 of the Examiner's Answer, the Examiner discusses the patentability of claims 8, 9, 48, and 49. The Examiner contends that delivering information about a musical background to said handicapped person and the musical background delivering information being the transmission of at least one of long and short physical impacts to a body part of the handicapped person are inherent in Lynt et al. To establish this, the Examiner relies on that portion of Lynt et al. which discusses delivering auditory information. The Examiner errs because there is no mention in Lynt et al. of delivering any information of a musical background. In other words, the Examiner has not shown that the subject matter of claims 8, 9, 48, and 49 are necessarily present in Lynt et al. and would be so recognized by one of ordinary skill in the art. For these reasons and the reasons set forth in Appellant's Brief, claims 8, 9, 48, and 49 are allowable.

On pages 30 and 31 of the Examiner's Answer, the Examiner discusses the patentability of claims 14, 15, 19, and 53 - 55. The Examiner contends that the limitation of transferring information about said visual images to the back of at least one finger of said handicapped person, and transmitting information about the character of a person displayed in the visual images through at least one impact to the back of the at least one finger, and transmitting

information about the visual images to the front portion of at least one finger are inherent in Lynt et al. In support of the inherency argument, the Examiner again cites that portion of Lynt et al. directed to the tactile display means. However, there is nothing in the cited portion that talks about transmitting information to the back of at least one finger; transmitting information about the character of a person; and transmitting information about the visual information to a front portion of at least one finger. In other words, there is nothing in the cited portion which shows that the missing descriptive material is necessarily present in Lynt et al. and would be so recognized by one of skill in the art. In other words, the Examiner has failed to sustain his burden of showing inherency through the use of extrinsic evidence. At best, the Examiner has shown a mere possibility, which is insufficient to establish inherency. For these reasons, and the reasons set forth in Appellant's Brief, claims 14, 15, 18, and 53 - 55 are allowable.

On page 31 of the Examiner's Answer, the Examiner addresses claim 20 and avers that Lynt et al. teaches transmitting information about a particular group; however, the Examiner misses the point that the information about the group has to be transmitted to a front portion of at least one finger. The cited portion does not disclose this aspect of the claimed method. Thus, for this reason, claim 20 is allowable.

On page 31 of the Examiner's Answer, the Examiner address claim 22. It is submitted that none of the cited portions disclose the step of transmitting information about lighting to the front portion of at least one finger.

For these reasons, claim 22 is not anticipated by Lynt et al.

On page 31 of the Examiner's Answer, the Examiner discusses claims 23 - 25 and 56. There is no disclosure in any of the cited portion (column 5, lines 35 - 60) of Lynt et al. of transmitting information about scenery to the front portion of the at least one finger (claim 23), transmitting information about a place to the front portion of the at least one finger (claim 24), and transmitting information about an activity to the front portion of the at least one finger. For these reasons, claims 23 -25 and 56 are not anticipated by Lynt et al.

On page 31 of the Examiner's answer, the Examiner discusses claims 26 and 57. The Examiner avers that Lynt et al teaches transmitting information about a dialogue being spoken associated with a visual image to the handicapped person. While Lynt et al. discloses outputting signals representative of detected speech, there is nothing in column 6, lines 10 - 32, that says that said speech is dialogue being spoken associated with a visual image. For these reasons, claims 26 and 57 are allowable despite the Examiner's contentions to the contrary.

On pages 31 and 32 of the Examiner's Answer, the Examiner discusses claims 71 and 72. While Lynt et al. discloses using different tactile displays, there is no disclosure of the specific body parts to which various signals are transmitted. So Lynt et al. can not anticipate the subject matter of claims 71 and 72. As for the obviousness statement, one can communicate much information to a handicapped person without communicating it to different body parts. Therefore, the Examiner's reason for finding obviousness is not sufficient to allow one to reach

the legal conclusion of obviousness. The Examiner points to nothing in the prior art which suggests the claimed subject matter. For these reasons, as well as the reasons set forth in Appellant's Brief, claims 71 and 72 are allowable.

With regard to the Examiner's first note on page 32 of the Examiner's Answer, the argument fails because for the reasons set forth above and in Appellant's Brief, the Examiner has not established that the claimed method/structure is old. As pointed out in Appellant's arguments, there are many structural differences between what is shown in Lynt et al. and what is being claimed.

With regard to the Examiner's second note on page 32 and 33 of the Examiner's Answer, claims 43, 46 - 49, and 53 - 56 all set forth structure in the form of means plus function claims. It is these means plus function limitations which distinguish the subject matter of these claims from the prior art. As discussed in Appellant's Brief, none of the structures set forth in these claims are present in Lynt et al.

(E) Patentability of Claims 2, 13, 16 - 18, 21, 28 - 32, 35, 36, 44, 52, 59 - 64, and 67 - 70

On pages 33 - 36 of the Examiner's Answer, the Examiner set forth his arguments relating to why each of the above claims is obvious over Lynt et al. in view of Hagle et al. Each of the claims is believed to be allowable for the reasons set forth in Appellant's Brief, which reasons are incorporated by reference herein. As for the Examiner's description of Hagle, it is incorrect. Hagle et al. is directed to a system where a user wears a glove having a plurality of sensors which replicate the

keys on a keyboard. There is nothing in Hagle et al. which says that the system provides any information about visual images, that the fingers are divided into first and second groups, or that the thumbs are used to perform control functions. As pointed out in Appellant's Brief, Hagle et al. is incapable of performing the claimed method steps and lacks the claimed means plus function limitations set forth in these claims.

As for combining Lynt et al. and Hagle et al., there is no reason to make such a combination. Lynt et al. does not use a keyboard to communicate with a user. Thus, there is no reason for the user to wear a glove that has stimulators in the form of the keys of a keyboard.

With regard to the Examiner's assertion on page 35 of the Examiner's Answer that Hagle et al.'s stimulators represent different functions, this assertion is incorrect. Hagle et al.'s stimulators represent different keys on a keyboard. There are no functions attributable to the stimulators other than telling a user what letters have been pressed on a keyboard. As set forth in Appellant's Brief, there is no disclosure in Hagle et al. of using the stimulators to transmit any of the information specified in the claims. In fact, Hagle et al. is incapable of that given the fact that different keys which would be used to form a word are on different fingers of both hands.

(F) Patentability of Claims 10 - 12, 39 - 41, 50 and 51

On pages 37 - 39 of the Examiner's Answer, the Examiner sets forth his arguments relating to why each of the above claims is obvious over Lynt et al. in view of Butnaru et al. Each of the claims is believed to be

allowable for the reasons set forth in Appellant's Brief, which reasons are incorporated herein.

On page 38 of the Examiner's Answer, the Examiner contends that Butnaru teaches transmitting information about a start and end of a commercial to a user and transmitting information about the start and end of an emergency broadcast test/test to the handicapped person. None of the portions of the Butnaru patent relied upon by the Examiner to support this proposition even mention a commercial and/or an emergency broadcast test. Further, it would not be necessary to transmit the start of a commercial to a user of the Butnaru device because the user could see when the commercial starts and ends. As set forth in column 1, lines 10 - 16 of Butnaru, the Butnaru device allows the user to visualize (emphasis added) speech and other sounds directed at him through various audio sources. The system includes a microphone and a speech recognizer to produce text for presentation to the user via a display. The Butnaru device could not be used by a blind person because the display is only a visual display. See Fig. 2 of Butnaru. Thus, the Examiner has erred when he says that the Butnaru device can be used by a deafblind person. The keypad in Butnaru is used to transmit information from the user to the environment surrounding the user. It is not used to provide the user with information such as information about a dialogue taking place.

As for the Examiner's obviousness conclusion, it would not have been obvious to include transmitting information about a start and an end of a commercial or a start or end of a test because neither reference does that. As for storing information, given the fact that Lynt et al. is

directed to a device that does not visually transmit information, there is absolutely no reason to store information from a written indicia scrolling across a screen containing the visual images for plat at another time.

For these reasons, and the reasons set forth in Appellant's Brief, claims 10 - 12, 39 - 41, 50 and 51 are allowable.

(G) Patentability of Claims 33, 34, 65, and 66

On pages 38 and 39 of the Examiner's Answer, the Examiner responds to Appellant's arguments about the patentability of claims 33, 34, 65, and 66. These claims are allowable for the reasons set forth in Appellant's Brief, which reasons are incorporated herein. Nissen does not transmit information about grammatical tense to at least one finger of at least one hand. It is incapable of doing that. One can not transmit information about grammatical tense when the fingers only receive information about consonants. This is because one can not form words using only consonants. The Examiner misapprehends the disclosure in Nissen. Thus, the rejection of claims 33, 34, 65 and 66 is fatally flawed.

CONCLUSION

For the reasons set forth herein, and for the reasons set forth in Appellant's Brief, the Board is hereby requested to reverse the rejections of record and remand the application to the Primary Examiner for allowance and issuance.

FEES

No fee is believed to be due as a result of this Reply Brief. Should the Director determine that a fee is due, he is hereby authorized to charge said fee to Deposit Account No. 02-0184.

Respectfully submitted,

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